

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: _____

FILED BY _____ D.C.
05 SEP 29 AM 9:18
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA - MIA

COMMODITY FUTURES TRADING
COMMISSION,

05-61588

Plaintiff,

v.

INTERNATIONAL BERKSHIRE GROUP
HOLDINGS, INC., BERKSHIRE
INTERNATIONAL, LLC a.k.a. BERKSHIRE
INTERNATIONAL GROUP, INC.,
BERKSHIRE INTERNATIONAL HOLDINGS,
LLC, BERKSHIRE INTERNATIONAL
HOLDINGS GROUP, LLC, INTERNATIONAL
IMS GROUP HOLDINGS, INC. a.k.a. IMS
HOLDINGS, INC., a.k.a. IMS GROUP
HOLDINGS, INC, IMS HOLDINGS, LLC,
HARRINGTON ADVISORY SERVICES SL
a.k.a. HARRINGTON GROUP, INC.,
RICHMOND ROYCE ADVISORY SERVICES,
SLU a.k.a. RICHMOND ROYCE
INTERNATIONAL GROUP, LTD,
STRATFORD ADVISORY SERVICES,
OAKMONT INTERNATIONAL LLC, ,
ROXANA SOFIA LAO MENDEZ, a.k.a.
ROXANA SOFIA LAO, BEATRIZ PERALTA
QUESADA, a.k.a. BEATRIZ PERALTA, and
JEFFERY PAUL JEDLICKI ,

CIV - ALTONAGA

**MAGISTRATE JUDGE
TURNOFF**

Defendants

v.

FED AND ASSOCIATES, LLC, JEFFERY
JEDLICKI, INC., BRISCOE AND
ASSOCIATES, INC., INTERNATIONAL
INVESTMENTS HOLDINGS CORPORATION
and GERAUD ENTERPRISES, INC.

Relief Defendants

**COMPLAINT FOR A PERMANENT INJUNCTION,
OTHER EQUITABLE RELIEF
AND CIVIL MONETARY PENALTIES**

I.

SUMMARY

1. Since July 2003 and continuing through the present, defendants Harrington Advisory Services SL a.k.a. Harrington Group, Inc., International Berkshire Group Holdings, Inc., Berkshire International LLC a.k.a. Berkshire International Group, Inc., Berkshire International Holdings, LLC, Berkshire International Holdings Group, LLC, Richmond Royce Advisory Services, SLU a.k.a. Richmond Royce International Group, Ltd, International IMS Group Holdings, Inc., a.k.a. IMS Holdings Inc., a.k.a. IMS Group Holdings, Inc., IMS Holdings, LLC, Stratford Advisory Services and Oakmont International LLC, operating as a common enterprise (collectively “The Berkshire Common Enterprise” or “BCE”), and telemarketer Jeffrey P. Jedlicki (“Jedlicki”), have fraudulently solicited and continue to solicit members of the retail public to engage in the speculative trading of illegal foreign currency options contracts.

2. Once the BCE lures customers to trade foreign currency options contracts, customers’ funds are misappropriated and funneled to offshore accounts in the Netherlands Antilles and the Federation of St. Kitts and Nevis (“Nevis”). Customers deposited over \$6.3 million into Berkshire, IMS and Oakmont bank accounts. Most of this money remains in accounts controlled by Defendants or has been distributed to the Defendants or the relief defendants. The few customers who are repaid small amounts by the BCE are paid from other customers’ funds in this *de facto* Ponzi scheme. Some of the misappropriated funds are re-transferred to the domestic accounts and then transferred to relief defendants FED and

Associates, Inc., International Investments Holdings Corp., Jeffery Jedlicki, Inc., Briscoe and Associates, Inc. and Geraud Enterprises, Inc.

3. By virtue of their conduct, the Defendants have engaged, are engaging, or are about to engage in acts and practices which violate Section 4c(b) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 6c(b) (2002) and Commodity Futures Trading Commission ("Commission") Regulations 1.1(b)(1) and (3), 32.9 and 32.11; 17 C.F.R. §§ 1.1(b) (1) & (3), 32.9 and 32.11 (2004).

4. Roxanna Sofia Lao Mendez, a.k.a. Roxanna Sofia Lao ("Lao") and Beatriz Peralta Quesada, a.k.a. Beatriz Peralta ("Peralta") aided and abetted certain violations and are liable as for those violations pursuant to Section 13(a) of Act, 7 U.S.C. § 13c(a) (2002).

5. Accordingly, the Commission brings this action, pursuant to Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), to enjoin Defendants from fraudulently soliciting customers and prospective customers, from offering illegal options on foreign currency, and to compel their compliance with the Act. In addition, the Commission seeks from each of the Defendants ancillary relief, including but not limited to: an accounting, disgorgement of ill-gotten gains, restitution to customers, civil monetary penalties, and such other relief as this Court may deem necessary or appropriate.

6. Unless enjoined by this Court, Defendants are likely to continue to engage in the acts and practices alleged in this Complaint and similar acts and practices, as more fully described below.

II.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Section 6c of the Act, 7 U.S.C. §13a-1 (2002), which authorizes the Commission to seek injunctive relief against any person whenever it shall appear to the Commission that such person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule, regulation or order thereunder.

8. Section 2(c)(2)(B) and (C) of the Act, 7 U.S.C. § 2(c)(2)(B) and (C) (2002) grants the Commission jurisdiction over certain retail transactions in foreign currency that are contracts for the sale of a commodity for future delivery (or options on such contracts), and options on foreign currency, including the transactions alleged in this Complaint.

9. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e) (2002), because Defendants are found in, inhabit, or transact business, among other places, in this District, or the acts, practices and omissions in violation of the Act have occurred, are occurring, or are about to occur, within this District, among other places.

III.

PARTIES

The Plaintiff

10. The **Commodity Futures Trading Commission** ("Commission") is an independent federal regulatory agency charged with the responsibility for administering and enforcing the provisions of the Act, 7 U.S.C. §§ 1 *et seq.* (2002), and the Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2004).

The Individual Defendants

11. **Roxanna Sofia Lao Mendez, a.k.a. Roxanna Sofia Lao (“Lao”)** is an individual with an address at 8345 N.W. 66th Street Suite 6508, Miami, Florida 33166. Lao is president/manager of Berkshire International, LLC. Lao has never been registered with the Commission in any capacity.

12. **Beatriz Peralta Quesada, a.k.a. Beatriz Peralta (“Peralta”)** is an individual with an address at 8345 N.W. 66th Street Suite 6508, Miami, Florida 33166. Peralta is president of Berkshire International Holdings, LLC and director of IMS Holdings, LLC. In addition, Peralta is secretary of International IMS Group Holdings, Inc. and a managing member of Oakmont International, LLC. Peralta has never been registered with the Commission in any capacity.

13. **Jeffery Paul Jedlicki (“Jedlicki”)** is an individual who resides at 19616 Dinner Key Drive, Boca Raton, Florida 33498. Jedlicki was registered with the Commission as an associated person of various introducing brokers from 1996 to 2005. In July 2003, NFA fined Jedlicki \$30,000 for failing to uphold high standards of commercial honor and just and equitable principles of trade, in violation of NFA Compliance Rule 2-4. Jedlicki is a defendant in *CFTC v. World Market Advisors, et al.*, Case No. 05-60928 Altonaga/Turnoff, pending in the United States District Court for the Southern District of Florida.

The Corporate Defendants

14. **International Berkshire Group Holdings, Inc. a.k.a. International Berkshire Group Holdings, Inc.** was formerly a Florida corporation with a corporate address of P. O. Box 19702, Sarasota, Florida 34276. The company was incorporated by Michael G. Brown, who

served as its President and resident agent. The company was dissolved on July 27, 2005.

International Berkshire Group Holdings, Inc. has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

15. **Berkshire International Holdings Group, LLC** was a Nevada limited liability company with a former principal place of business at 8345 N.W. 66th Street Suite 6508, Miami, Florida, 33166. Berkshire International Holdings Group, LLC was registered in the State of Florida as a foreign limited liability company, and its registered agent was Michael Brown. Berkshire International Holdings Group, LLC has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

16. **Berkshire International Holdings, LLC** was a Nevada limited liability company, with a former principal place of business at 8345 N.W. 66th Street Suite 6508, Miami, Florida, 33166. Berkshire International Holdings, LLC was also registered in Florida as a foreign limited liability company, whose registered agent was Michael Brown, and whose President was Roxana Sofia Lao Mendez.. Berkshire International Holdings, LLC has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

17. **Berkshire International, LLC a.k.a. Berkshire International Group, Inc.,** was a Nevada limited liability company whose principal place of business was listed as 50 Liberty Street, Suite 880, Reno, Nevada. Berkshire International, LLC was also formerly registered in Florida foreign limited liability company, Michael Brown was the registered agent and Beatriz Peralta Quesada was its President. Berkshire International LLC has never been registered with

the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

Berkshire International, LLC uses the name Berkshire International Group, Inc. on various web pages.

18. Harrington Advisory Services, SL a.k.a. Harrington Group, Inc.

(“Harrington”) is a Spanish corporation with a purported principal place of business at 214 Bajos Buzón #119 08011 Barcelona, Spain. Harrington has never been registered with the Commission in any capacity.

19. International IMS Group Holdings, Inc., a.k.a. IMS Holdings, Inc., a.k.a.

IMS Holding Group, Inc. was a Florida corporation with its principal place of business at Post Office Box 19702, Sarasota, Florida 34276. The company was dissolved on July 27, 2005.

Michael Brown was the registered agent for International IMS Group Holdings, Inc., as well as its President. International IMS Group Holdings has never been registered with the Commission in any capacity nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

20. IMS Holdings, LLC was a Nevada limited liability company with a principal place of business at 8345 N.W. 66th Street Suite 6508, Miami, Florida 33166. IMS was registered in Florida as a foreign limited liability company, but that registration was withdrawn on July 11, 2005. Michael Brown was the Florida registered agent for IMS Holdings, LLC. IMS Holdings, LLC has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

21. **Richmond Royce Advisory Services, SLU a.k.a. Richmond Royce**

International Group, Ltd, (“Richmond”) is a Spanish Corporation with an address at Roger de Luria 137, Buzon 196, Barcelona, Spain 08037. Richmond Royce has never been registered with the Commission in any capacity.

22. **Stratford Advisory Services (“Stratford”)** is a corporate entity purportedly

organized under the laws of the Republic of Spain, with an address at Aribau 221 Bajos, Buzon # 225, 08021 Barcelona, Spain. Stratford has never been registered with the Commission in any capacity.

23. **Oakmont International, LLC (“Oakmont”)** was a Florida limited liability

company with a corporate address of P.O. Box 19702, Sarasota, Florida 34276. Oakmont was incorporated by Michael G. Brown, who initially served as a managing member of Oakmont as well as its resident agent. On or about April 25, 2005, Brown resigned as a managing member of Oakmont, and on August 2, 2005, Oakmont's corporate existence was dissolved. Beatriz Peralta is or was a managing member of Oakmont. Oakmont has never been registered with the Commission in any capacity, nor has it been designated by the Commission as a contract market for the trading of options on foreign currency.

The Relief Defendants

24. **FED and Associates, LLC** is a dissolved Nevada limited liability company,

presumably operating as a sole proprietorship, that lists a principal place of business as 20533 Biscayne Blvd #530, Aventura, Florida 33180. FED and Associates has never been registered with the Commission in any capacity.

25. **Jeffery Jedlicki, Inc.** is a Florida corporation with a principal address at 19616

Dinner Key Drive, Boca Raton, Florida 33498. Jeffrey Paul Jedlicki is listed as the president of Jeffery Jedlicki, Inc. Jeffery Jedlicki, Inc. has never been registered with the Commission in any capacity.

26. **Briscoe and Associates, Inc.** is a Florida corporation with a principal address of 6278 N. Federal Highway, Ft. Lauderdale, Florida 33308. Erica Briscoe is listed as the president of Briscoe and Associates, Inc. Briscoe and Associates, Inc. has never been registered with the Commission in any capacity.

27. **Geraud Enterprises, Inc.** is a Florida corporation with a principal address at 2311 N. E. 32nd Court, Lighthouse Point, Florida 33064. John P. Miller is the registered agent for Geraud Enterprises, Inc. Geraud Enterprises, Inc. has never been registered with the Commission in any capacity.

28. **International Investments Holdings Corp., (“IIHC”)** is an International Business Corporation formed in the Bahamas that originally used 4914 NW 52nd Avenue, Coconut Creek, Florida 33073 as its principal place of business, and later conducted business from 2410 NE 31st Court, Lighthouse Point, Florida, as well as from other locations throughout south Florida. IIHC has never been registered with the Commission in any capacity.

IV.

FACTS

A. THE JURISDICTION TO BRING THIS SUIT UNDER THE ACT

29. Section 2(c)(2)(B)(i) and (ii) of the Act provides that the CFTC shall have jurisdiction over an agreement, contract or transaction in foreign currency that is a sale of a commodity for future delivery (or option thereon) or an option, so long as the contract is “offered to, or entered into with, a person that is *not* an eligible contract participant,” and the

counterparty, or the person offering to be the counterparty, is not one of the regulated entities enumerated in Section 2(c)(2)(B)(ii)(I-VI). 7 U.S.C. § 2(c)(2)(B)(i) and (ii).

30. Section 1a(12)(A)(xi) of the Act, 7 U.S.C. § 1, defines an eligible contract participant as an individual who has total assets in excess of: a) \$10 million; or b) \$5 million and who enters the transaction to manage the risk associated with an asset owned or a liability incurred, or reasonably likely to be owned or incurred.

31. Most, if not all, of the foreign currency options transactions alleged herein were offered to or entered into with persons who did not qualify as eligible contract participants, meaning that the customers identified herein were retail customers whose transactions are contemplated by Section 2(c)(2)(B) of the Act to be within the Commission's jurisdiction.

32. During the relevant time, none of the defendants, including the Berkshire entities, the IMS entities, or the Oakmont entity, were proper counterparties for the retail foreign currency transactions described in the Complaint because they were not one of the regulated entities enumerated in Section 2(c)(2)(B)(ii)(I-VI).

33. Since none of the defendants are proper counterparties and the customers are not eligible contract participants, the Commission has jurisdiction over this action.

B. THE SCHEME

(1) Harrington/Berkshire Phase

34. Harrington began operations on or about July 2003, ostensibly providing advice to customers wishing to trade in the currency markets or options on the currency markets.

35. Harrington established a website, harringtonfx.com, which represented to customers: "[w]ith every tick of the clock, fortunes are made and lost. In the Foreign Exchange market, where bulls and bears have little or no role, a timely decision can spell success." The

website further represents that Harrington has the “expertise and resources” to guide customers to success in the foreign exchange markets.

36. Harrington’s website also solicits potential retail customers by stating:

- “Harrington Advisory Services is dedicated to managing your investment strategy in the FX markets and as such offers advice, analysis and recommendations to our customers.”
- “On the basis of your personal situation and investment objectives, you may be invited to open a trading account with our brokering partner Berkshire International.”

The Harrington website also provides customers with “customer service” and “help desk” buttons.

37. According to the Harrington website, Berkshire International, LLC is the clearing firm for foreign exchange options that will hold the customer accounts and funds. Harrington includes Berkshire International, LLC account opening documents on its website. These account opening documents instruct customers to send money to a Wachovia bank account in the name of Berkshire International Group, Inc., an apparent “d/b/a” of Berkshire International, LLC.

38. There are four “Berkshire” entities: International Berkshire Group Holdings, Inc., Berkshire International, LLC also known as Berkshire International Group, Inc., Berkshire International Holdings, LLC, and Berkshire International Holdings Group, LLC (collectively “the Berkshire companies”). Berkshire International, LLC maintains a website, www.berkshirefx.net, and accepts funds from customers solicited by, among others, Harrington. Harrington introduces its customers only to Berkshire International, LLC.

39. Defendant Jedlicki was one of the main telemarketers engaged in high-pressure sales on behalf of the Berkshire International, LLC. Jedlicki told one customer that foreign

currency options offer “great opportunities to profit” in a short time with limited risk. Jedlicki promised the customer that he would make over one million euros if he invested with Berkshire International.

40. As part of his solicitation efforts, Jedlicki falsely advised a customer that the “Berkshire” for whom he was soliciting was the same company as billionaire investor Warren Buffet’s Berkshire Hathaway. Jedlicki also stated that he was a very successful trader who had a long-term relationships with other customers for whom he managed accounts of over \$1 million.

41. Jedlicki knew his representations were false because, as a previously registered professional in the commodity futures industry, he: (a) knew that he was not soliciting on behalf of Berkshire Hathaway because he never had any relationship whatsoever to Berkshire Hathaway and neither does the Berkshire Common Enterprise, and (b) knew that he was not a successful trader with long-term relationships with customers for whom he managed accounts of over \$1 million by virtue of the fact that no customers of the Berkshire International, LLC maintained an account of that size and Berkshire International was only in business for at most a period of months when Jedlicki made the statements.

42. Jedlicki solicited and accepted orders from customers for the purported purchase of foreign exchange options contracts. Jedlicki convinced one customer to “purchase” over \$472,241 worth of foreign exchange options contracts, resulting in net losses of more than \$379,000.

43. Based upon misrepresentations on Harrington’s website and those of Berkshire International, LLC’s agents, customers opened accounts with Berkshire International, LLC to trade foreign currency options. Contrary to representations made to customers and prospective

customers, no trading ever actually occurred. Thus, the transactions at issue did not occur on a contract market or foreign board of trade.

44. Instead of executing forex options transactions, the Berkshire companies misappropriated customer funds. From July 2003 to March 2004, Berkshire International, LLC received over \$1.48 million in customer deposits in a Bank of America account. From December 2003 to March 2004, Berkshire International, LLC transferred funds in excess of \$1.45 million from the Bank of America account to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles. The Bank of America's Berkshire International, LLC account refunded funds to customers in the amount of approximately \$45,000.

45. From August 2003 and November 2003, Berkshire International, LLC received customer deposits of over \$3.2 million in an account at Wachovia bank in Florida. Of the \$3.2 million, approximately \$1.35 million was transferred to an account titled "IIHC" at the Bank of Nevis International and approximately \$542,000 was transferred to an account titled Berkshire International Group Inc. at First International Bank of Curacao in the Netherlands Antilles. Of the \$3.2 million, approximately \$1.2 million was transferred to a Berkshire International, LLC "operating account" at Wachovia ("Wachovia Operating Account"). The Wachovia Operating Account transferred approximately \$243,000 offshore to the Berkshire International Group, Inc. account at First International Bank of Curacao in the Netherlands Antilles. The remainder of the funds in the Wachovia Operating Account were used for payroll expenses, various operating expenses and payments to relief defendants, as follows: Briscoe and Associates - \$7,975; FED and Associates - \$155,000, Geraud Enterprises, Inc. - \$49,100, Jeffrey Jedlicki, Inc. - \$89,000.

Combined refunds to customers from these Berkshire International accounts at Wachovia totaled \$30,800.

46. In addition, there existed an account at Wachovia in the name of International Berkshire Group Holdings, Inc. ("IBGH"). From March 2004 through July 2004, the IBGH account received over \$813,000 in customer deposits. During the same time period, IBGH transferred over \$762,000 to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles. The IBGH Wachovia account paid back customers approximately \$43,000. Many customers were paid refunds out of this account even though their initial deposits were with other banks with other account names. For example, one customer opened his account with Berkshire International and wired \$13,000 into Berkshire International, LLC's Bank of America account on February 17, 2004. However, when he closed his account in April 2004, he received a check in the amount of \$3,036 from the Wachovia account of IBGH.

47. Defendant Peralta served as president of Berkshire International Holdings, LLC and was a signatory on International Berkshire Group Holdings, Inc.'s Florida bank accounts. She also wrote checks from International Berkshire Holdings Group, Inc.'s bank account to incorporate Berkshire International, LLC in Nevada.

48. In March 2004, Brown and Peralta opened and became signatories on the account entitled International Berkshire Group Holdings, Inc. at another Florida branch of Wachovia. Brown used a personal check in the amount of \$100 to open the account. As stated above, between March 2004 and July 2004, this account received over \$813,000 in customer deposits. During this period, Peralta signed numerous checks transferring over \$762,000 from the

International Berkshire Group Holdings, Inc. account to the bank account of Berkshire International Group, Inc. at First International Bank of Curacao in the Netherlands Antilles.

49. Defendant Lao served as manager of Berkshire International, LLC and both opened and was a signatory on Berkshire International, LLC's bank accounts at Wachovia and Bank of America.

(2) The Richmond/IMS Phase

50. The Richmond/IMS phase of the scheme involved three companies. Richmond solicited for and introduced customers to one of two purported clearing firms using "IMS" in their name, International IMS Group Holdings, Inc. and IMS Holdings, LLC (collectively referred to as "IMS").

51. Richmond was a nearly identical company to Harrington. Like Harrington, Richmond is incorporated as a Spanish limited liability company, but conducts business in Florida. Richmond employs many of the same sales consultants as Harrington, some of whom conduct business from Florida.

52. Richmond, via its website, richmondroycefx.com, and telemarketers, solicited customers to trade foreign currency options with IMS and included IMS account opening documents on its website. The website explained that call options on the Euro "have limited risk and duration" but allow investors "an unlimited propensity for profit." Risk is only limited to the loss of "premiums, commissions, and fees." Richmond attempted to have a veneer of legitimacy by including its "CFTC required Risk Disclosure Statement."

53. After opening accounts with Richmond, customers sent funds to IMS without knowing that the IMS companies operate under various names. For example, the IMS website referred alternately to IMS Holdings, Inc. or IMS Group Holdings, Inc. However, funds paid to

IMS go to International IMS Group Holdings, Inc. or IMS Holdings, LLC. IMS shared the same registered agent, Michael G. Brown ("Brown"), with Berkshire International and shares the Berkshire companies' corporate officers, Peralta and Brown.

54. IMS also maintained a website to solicit customers to purchase foreign currency options. Contrary to representations made to customers and prospective customers, no trading ever actually occurred. Thus, the transactions at issue did not occur on a contract market or foreign board of trade.

55. As instructed, customers sent approximately \$425,000 to various IMS bank accounts at Wachovia Bank, N.A. or Bank of America in Florida. IMS, through its agents, wired approximately \$364,846 in customer funds to IMS accounts at the First International Bank of Curacao in the Netherlands Antilles. No money was returned to customers.

56. Peralta was a signatory on the International IMS Group Holdings, Inc.'s Florida bank account and served as the secretary of International IMS Holdings Group, Inc. and as director of IMS Holdings Group, Inc.

(3) Stratford/Oakmont Phase

57. Operating parallel and as a successor to the Richmond /IMS phase are Stratford Advisory Services ("Stratford") and Oakmont International LLC ("Oakmont"). Stratford introduces customers to Oakmont. The Stratford/Oakmont operations are nearly identical to the Richmond/IMS operations.

58. Like the Richmond/IMS arrangement, Stratford/Oakmont established websites to solicit customers to trade foreign currency options. The websites, stratfordfx.com and oakmontfx.com, are nearly identically to richmondroycefx.com. Contrary to representations

made to customers and prospective customers, no trading ever actually occurred. Thus, the transactions at issue did not occur on a contract market or foreign board of trade.

59. Brown is the registered agent and incorporator of Oakmont. Brown was a managing member of Oakmont until April 25, 2005.

60. Stratford solicits customers to purchase foreign currency options by touting its purported experience in the foreign exchange market. The website offers "full service trading accounts," "managed trading accounts," and "option trading programs."

61. Customers interested in opening an account with Stratford are linked to Oakmont's website and its account opening forms. In the "pre-investment checklist" portion of their respective websites, Stratford/Oakmont advise customers that any firm offering foreign currency options should be registered with the Commission, despite the fact that neither Stratford nor Oakmont are registered with the Commission.

62. The initial version of the Oakmont website provided a link to account opening documents for IMS until the operators apparently realized that the name on the documents needed to be changed.

63. Funds of customers opening an account with Oakmont are directed to a Bank of America account entitled "Oakmont International LLC" at a bank branch in Sarasota, Florida ("Oakmont Account").

64. A limited cash flow analysis of the recent activity in the Oakmont Account indicates that the account continues to be used to pass money to offshore and domestic accounts in the name of Berkshire Common Enterprise entities. During April 2005, in excess of \$439,000 was wired into the account and over \$426,688 was wired out.

65. Given the continuation of the same foreign currency options scam, the common ownership and control, the nearly identical websites and account opening documents, and the pass-through nature of the funds transfers, it is clear that the Stratford/Oakmont entities are another phase of the Berkshire Common Enterprise.

C. THE BERKSHIRE COMMON ENTERPRISE

66. The Berkshire companies, IMS companies, and Oakmont operated as a common enterprise (hereinafter the "Common Enterprise"). The companies comprising the Common Enterprise were commonly controlled in that they were created and operated by the same individuals, they shared officers, addresses, solicitation schemes and commingled corporate funds.

D. THE INDIVIDUALS' INVOLVEMENT

(1) Lao

67. Lao is the manager of Berkshire International, LLC., the Berkshire entity that falsely claims to conduct trading opposite Harrington customers.

68. Lao, without limitation, opened a Berkshire International, LLC bank account and was the sole signatory on this account. She transferred funds offshore and/or to various defendants and relief defendants and did not use them to execute forex option transactions. Consequently, Lao knew of the misappropriation of customer funds that occurred during the Berkshire phase of the scheme. Further, her acts of transferring funds demonstrate that she participated in the scheme as something she wished to bring about and sought to make succeed.

(2) Peralta

69. Peralta was the corporate secretary of International IMS Group Holdings, Inc., the entity that purportedly executed foreign currency options opposite customers.

70. In addition and without limitation, Peralta opened and was a signatory on the International IMS Group Holdings, Inc. bank accounts and wrote checks from the International IMS Group Holdings, Inc. bank account at Bank of America transferring funds offshore and did not use them to execute forex option transactions. Consequently, Peralta knew of the misappropriation of customer funds that occurred during the IMS phase of the scheme. Further, her acts of transferring funds demonstrate that she participated in the scheme as something she wished to bring about and sought to make succeed.

71. Peralta also was the manager of Berkshire International Holdings, LLC and director of IMS Holdings, LLC. In addition, she was a signatory on International Berkshire Group Holdings, Inc. She signed checks from an International Berkshire Group Holdings, Inc. account opened at Wachovia Bank in Florida, including a check from this account used to incorporate Berkshire International, LLC in the State of Nevada. Peralta currently is a managing member of Oakmont. By her act Peralta demonstrates that she participated in the scheme as something she wished to bring about and sought to make succeed.

(3) Jedlicki

72. Jedlicki was an employee of Harrington, and served as one of its telemarketers. Jedlicki directly solicited customers to buy and sell foreign currency options contracts.

73. Without limitation, Jedlicki engaged in fraud by promising customers that they would make enormous profits with little risk by trading foreign currency options. After Jedlicki convinced customers to purchase options and send funds, customers were unable to liquidate their "trades" because the Defendants were not placing any trades. Jedlicki also misled customers by implying a relationship between Defendant Berkshire International and Berkshire Hathaway, a completely unrelated entity owned by Warren Buffet and others.

V.
COUNT ONE

VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b)
AND REGULATIONS 1.1(b), and 32.9, 17 C.F.R. §§ 1.1(b), and 32.9:
FRAUD IN CONNECTION WITH COMMODITY OPTION TRANSACTIONS

74. Paragraphs 1 through 73 are re-alleged and incorporated herein.

75. In or in connection with the offer to enter into, the entry into, the confirmation of, the execution of, or the maintenance of commodity option transactions, the Common Enterprise, through its websites and telemarketers, including Jedlicki, has cheated, defrauded, or deceived, or attempted to cheat, defraud or deceive, other persons, by misappropriating customer funds and by making false, deceptive or misleading representations of material facts and by failing to disclose material facts necessary to make other facts they disclosed not misleading, all in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b), and Regulations 1.1(b) (1) and (3), 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), 32.9(a) and (c).

76. Harrington is liable for the foregoing acts and omissions of its agent Jedlicki for violating Section 4c(b) of the Act and Regulations 32.9(a) and (c) by operation of Section 2(a)(1)(B) of the Act, 7 U.S.C. § 2 (2002).

77. Peralta aided and abetted the violations committed by the Common Enterprise. Peralta is therefore liable for each of these violations of the Act and Regulations pursuant to Section 13(a) of the Act, 7 U.S.C. §13c(a) (2002).

78. Lao aided and abetted the violations committed by the Common Enterprise. Lao is therefore liable for each of these violations of the Act and Regulations pursuant to Section 13(b) of the Act, 7 U.S.C. §13c(b) (2002).

79. Each misrepresentation, omission, actual or attempted act to cheat, defraud, or deceive, including but not limited to those specifically alleged herein, is alleged as a separate and

distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulations 1.1(b)(1) and (3), and 32.9(a) and (c), 17 C.F.R. §§ 1.1(b)(1) and (3), and 32.9(a) and (c) (2004).

COUNT TWO

VIOLATIONS OF SECTION 4c(b) OF THE ACT, 7 U.S.C. § 6c(b) AND REGULATION 32.11(a), 17 C.F.R. § 32.11(a): OFFER AND SALE OF ILLEGAL OFF-EXCHANGE COMMODITY OPTIONS

80. Plaintiff re-alleges paragraphs 1 through 79 above and incorporates these allegations herein by reference.

81. Section 4c(b) of the Act provides that “no person shall offer to enter into or confirm the execution of, any transaction involving any commodity regulated under this Act which is of the character of, or is commonly known to the trade as, an ‘option,’ ... contrary to any rule, regulation or order of the Commission prohibiting any such transaction....”

Commission Regulation 32.11(a) states that it is unlawful for any person to solicit or accept orders for the purchase or sale of any commodity option, except for commodity option transactions conducted or executed on or subject to the rules of a contract market.

82. Since approximately July 2003 to the present, Jedlicki and agents of Harrington, Richmond and Stratford have solicited and/or accepted orders for, and/or accepted money, securities or property in connection with, the purchase and sale of commodity options when: (a) such transactions have not been conducted or executed on or subject to the rules of a contract market, or (b) a foreign board of trade in violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulation 32.11(a), 17 C.F.R. § 32.11(a) (2004).

83. Each foreign exchange commodity option transaction solicited and/or executed since July 2003, including but not limited to those specifically alleged herein, is alleged as a

separate and distinct violation of Section 4c(b) of the Act, 7 U.S.C. § 6c(b) (2002), and Regulation 32.11(a), 17 C.F.R. § 32.11(a) (2004).

COUNT THREE

DISGORGEMENT OF THE ASSETS OF THE RELIEF DEFENDANTS

84. Plaintiff re-alleges paragraphs 1 through 83 above and incorporates these allegations herein by reference.

85. The Berkshire Common Enterprise has committed a fraud upon its customers in connection with the purchase and sale of foreign currency options contracts as alleged herein.

86. The Relief Defendants have received funds or otherwise benefited from funds which are directly traceable to the funds obtained from the Berkshire Common Enterprise customers through fraud.

87. The Relief Defendants are not *bona fide* purchasers with legal and equitable title to the customers' funds or assets, and the Relief Defendants will be unjustly enriched if they are not required to disgorge the funds or the value of the benefit they received as a result of the Berkshire Common Enterprise's fraud.

88. The Relief Defendants should be required to disgorge the funds and assets, or the value of the benefit they received from those funds and assets, which are traceable to the Berkshire Common Enterprise's fraud.

89. By reason of the foregoing, the Relief Defendants hold funds and assets in constructive trust for the benefit of the Berkshire Common Enterprise customers.

VI.

RELIEF REQUESTED

Wherefore, the Commission respectfully requests that this Court, as authorized by Section 6c of the Act, 7 U.S.C. § 13a-1 (2002), and pursuant to its own equitable powers, enter:

- a. a permanent injunction prohibiting the Defendants and any other person or entity associated with them, or any successor thereof, from engaging in conduct violative of the provisions of the Act as alleged in this Complaint, and from engaging in any activity relating to commodity interest trading, including but not limited to, soliciting, accepting or receiving funds, revenue or other property from any person, giving advice for compensation, or soliciting prospective customers, related to the purchase and sale of any commodity futures or options on commodity futures contracts;
- b. an order directing the Defendants and any successors thereof, as well as the Relief Defendants and any successors thereof, to disgorge, pursuant to such procedure as the Court may order, all benefits received from the acts or practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
- c. an order directing the Defendants to make full restitution to every customer whose funds were received by them as a result of acts and practices which constituted violations of the Act, as described herein, and interest thereon from the date of such violations;
- d. an order directing the Defendants to pay civil monetary penalties under the Act, to be assessed by the Court, in amounts of, not more than the higher of \$120,000 for

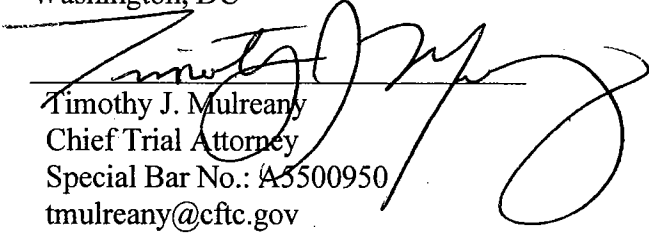
each violation prior to October 24, 2004, and \$130,000 for violations thereafter, or triple the monetary gain to Defendants for each violation of the Act and Regulations described herein.

- e. requiring the Defendants to pay costs and fees as permitted by 28 U.S.C. §§ 1920 and 2412(a)(2) (1994); and
- f. such other and further remedial ancillary relief as the Court may deem just and appropriate.

Dated: 09/29/05

Respectfully submitted,

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